THE UNITED STATES CONSTITUTION.

I. THE CONSTITUTION IS A PRO-SLAVERY INSTRUMENT, ACCORDING TO THE NECESSARY MEANING OF ITS TERMS.

ADMITTING, as we do, that the words of any written instrument constitute the only legal evidence of its meaning, we ask, What is the meaning of the following clauses in the Constitution of the United States?

Art. 1, sec. 2: "Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."

This section distinguishes between free persons and slaves, because to the whole number of *free* persons are to be added three fifths of *all other* persons; that is, persons not free, or slaves. By excluding from the class of free persons those bound to service for life, without—as in case of Indians not taxed—assigning a reason for such exclusion, it declares them to be slaves, within the meaning of the Constitution.

This article, therefore, recognizes slavery as explicitly as if the word *slave* itself had been used, and gives to the free persons in a slave State, solely because they are slaveholders, a larger representation, and consequently greater political power, than the same number of free persons in a free State. A BOUNTY ON SLAVEHOLDING!

Art. 1, sec. 9: "The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

A person who migrates does so of his own accord; he cannot be said to be migrated by any other person. He is wholly a free agent. But a person who is imported does not import himself; he is imported by some other person. He is passive. The importer is the free agent; the person imported is not a free agent. The Virginia slave laws of 1748 and 1753 proceed on this distinction when they say "*all persons * imported * shall be slaves.*" Whenever we hear an importation spoken of, we instantly infer an *owner*, and *property* imported. This distinction between the force of the words migration and importation is, then, real.

That the Constitution also makes a distinction is evident, because only persons imported can be taxed. And that it adopts the distinction we have just pointed out is also evident, because this alone can afford us a sufficient reason why persons imported may be taxed, and persons who migrate cannot be.

By this clause, therefore, Congress was prevented, during twenty years, from prohibiting the foreign slave trade with any State that pleased to allow it. But by Art. 1, sec. 8, Congress had the general power "to regulate commerce with foreign nations." Consequently, *the slave trade was excepted from the operation of the general power, with a view to place the slave trade, during twenty years, solely under the control of the slave States.* It could not be wholly stopped, so long as one State wished to continue it. It is a clear compromise in favor of slavery. True, the compromise was a temporary one; but it will be noticed, that Congress, even after 1808, was not obliged to prohibit the trade. Even now we are discussing the expediency of reopening the accursed traffic! whilst, in point of fact, until 1819 the laws of Congress authorized the States to sell into slavery, for their own benefit, negroes imported contrary to the laws of the United States! (Act Congr. 1807, c. 77, § 4, 6; 1818, c. 86, § 5 and 7; 10 Wheat. Rep. 321, 322.) So unmixed should be our satisfaction at the oft-repeated boast, that ours was the first nation to prohibit the African slave trade!

Art. 4, sec. 2: "No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due."

No one can be illegally "bound" to service, and one who is legally bound is legally "held" to that service. The expressions

a person "bound" to service and a person "legally held" to service are, therefore, equivalent. This section evidently embraces, not only persons held to service for a term of years, but also those held to service for life, and therefore includes not only free persons, but those who are declared to be slaves within the meaning of the Constitution. (Art. 1, sec. 2.)

That the expression used in this section legally includes slaves is also evident on other grounds. The ordinance of 1787 calls a slave a person "from whom labor or service is lawfully claimed." (Art. 6.) It is a criminal offence in all the States, except Maryland, Virginia, and Texas, to entice a slave to leave his master's "service." In Maryland, and Virginia, and other States, the owner has a civil action for damages against the person who thus entices away his slave. And the laws of all the States recognize the master's right to enforce the labor of the slave.

If, however, it is a crime to entice a slave to leave his master's "service," and if such act subject a man to an action for damages by the owner, it is evident that the master must have a legal right to the "service" of his slave; for it is the infringement of this right which makes the crime and gives ground to claim damages. The slave is, therefore, a person legally held to service or labor. And as if to remove all doubt, the very expression is applied to slaves in the laws of all the States except Tennessee, Georgia, Alabama, and Texas.

By this section, therefore, it is provided that no person held as a slave in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from his slavery, but shall be delivered up on claim of his owner. The laws of one State, whether they support slavery or any other institution, have no power in another State. Consequently, if a slave escape into a free State, he becomes free. This is the general rule of law. In virtue of it, thousands of slaves are now free on the soil of Canada. In virtue of it, a fugitive slave from South Carolina would be free in this State, were it not for this section in the Constitution. But this section declares that he shall not thereby become free, but shall be delivered up. Again: *the Constitution makes an exception from a general rule of law in favor of slavery.* It gives to slaveholders and slave laws a power which the general rule of law does not give. It enables a South Carolina slaveholder to drag from the soil of Massachusetts a person whom the general

rule of law pronounces free, solely because South Carolina laws declare the contrary. IT MAKES THE WHOLE UNION A VAST HUNTING GROUND FOR SLAVES!

Art. 1, sec. 8: "Congress shall have power * * * to provide for calling forth the militia * * * to *suppress insurrections.*"

Art. 4, sec. 4: "The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the legislature, or of the executive, (when the legislature cannot be convened,) against *domestic violence.*"

All insurrections and *all* cases of domestic violence are here provided for. To constitute an insurrection there must be a rising against those laws which are recognized as such by the Constitution; and, to make out a case of domestic violence, the violence must be exerted against that right or power which is recognized by the Constitution as lawful. But by Art. 1, sec. 2, and Art. 4, sec. 2, the Constitution admits that some persons may be legally slaves. Consequently, if these persons rise in rebellion, or commit acts of violence contrary to the laws which hold them in slavery, their rising constitutes an insurrection; such acts are acts of violence within the meaning of the Constitution, and consequently must be suppressed by the national power.

The self-styled owners are not the only slaveholders. All persons who voluntarily assist or pledge themselves to assist in holding persons in slavery are slaveholders. *In sober truth, then, we are a nation of slaveholders!* for we have bound our whole national strength to the slave owners, to aid them, if necessary, in holding their slaves in subjection!

II. THE FRAMERS OF THE CONSTITUTION INTENDED TO MAKE A PRO-SLAVERY INSTRUMENT.

On the 17th of September, 1787, the Philadelphia Convention adopted the plan of the present Constitution. The draft thus made was submitted to the people, assembled in State Conventions, "for their assent and ratification." President Madison has preserved a record of the debates in the Philadelphia Convention; and we have also published accounts of the debates in several of the State conventions. We draw our evidence mainly from these sources.

APPORTIONMENT OF REPRESENTATIVES. (Const., Art. 1, sec. 2.)

Rufus King, of Massachusetts, one of the framers, said of the expression "three fifths of all other persons," "These persons are the slaves." Alexander Hamilton, of New York, another of the framers, referring to this clause "which allows a representation for three fifths of the negroes," said, "*without this indulgence no union could possibly have been formed.*" Luther Martin, also a delegate to the Philadelphia Convention, objected to this clause because "it involved the absurdity of increasing the power of a State in making laws for freemen, in proportion as that State violated the rights of freedom." William R. Davie, a delegate from North Carolina, says that the Southern States, "to acquire as much weight as possible in the legislation of the Union," insisted "that a certain proportion of our slaves should make a part of the computed population." General Charles C. Pinckney, another of the framers of the Constitution, said, "We determined that representatives should be apportioned among the several States by adding to the whole number of free persons three fifths of the slaves."

PERMISSION OF THE AFRICAN SLAVE TRADE. (Const., Art. 4, sec. 9.)

Luther Martin, speaking of this section, says, "The design of this clause is to prevent the general government from prohibiting the importation of slaves; but the same reasons which caused them to strike out the word 'national,' and not admit the word 'stamps,' influenced them here to guard against the word 'slaves.' They anxiously sought to avoid the admission of expressions which might be odious in the ears of Americans, although they were willing to admit into their system those things which the expressions signified." * * *

"The Eastern States, notwithstanding their aversion to slavery, were very willing to indulge the Southern States, at least with a temporary liberty to prosecute the slave trade, provided the Southern States would in their turn gratify them, by laying no restriction on navigation acts."

Mr. Madison says, "*The Southern States would not have entered into the Union of America without the temporary permission of that trade.*" Mr. Spaight, of North Carolina, one of the framers, says that the Southern States would not consent "to exclude the

importation of slaves absolutely; that South Carolina and Georgia insisted on this clause as they were now in want of hands to cultivate their lands; that in the course of twenty years they would be fully supplied; that the trade would be abolished then, and that in the mean time some tax or duty might be laid on." Hon. Rawlins Lowndes, of South Carolina, thought it almost inhuman to put any limit to the trade. General Charles C. Pinckney said, "By this settlement we have secured an unlimited importation of negroes for twenty years; nor is it declared that the importation shall be then stopped; it may be continued; we have a security that the general government can never emancipate them."

RESTORATION OF FUGITIVE SLAVES. (Const., Art. 4, sec. 2.)

In the Virginia Convention, Mr. Madison said,—

"Another clause secures us that property which we now possess. At present, if any slave elopes to any of those States where slaves are free, he becomes emancipated by their laws; for the laws of the States are uncharitable (!) to one another in this respect. But in this Constitution, [then he quotes Art. 4, sec. 2.] *This clause was expressly inserted to enable owners of slaves to reclaim them.* This is a better security than any that now exists."

In the North Carolina Convention, Mr. Iredell begged leave to explain the reason of this clause:—

"In some of the Northern States they have emancipated all their slaves. If any of our slaves," said he, "go there, and remain there a certain time, they would, by the present laws, be entitled to their freedom, so that their masters could not get them again. This would be extremely prejudicial to the inhabitants of the Southern States; and *to prevent it this clause is inserted in the Constitution.* Though the word *slave* be not mentioned, this is the meaning of it. The northern delegates, owing to their particular scruples on the subject of slavery, did not choose the word *slave* to be mentioned."

In the South Carolina Convention, General Pinckney thus expresses his gratification at this clause:—

"*We have obtained a right to recover our slaves in whatever part of America they may take refuge, which is a right we had not before.* In short, considering all circumstances, we have made the best terms for the security of this species of property it was in our power to make. We would have made better if we could; but, on the whole, I do not think them bad." (!)

SUPPRESSION OF SLAVE INSURRECTIONS. (Const., Art. 1, sec. 8; Art. 4, sec. 4.)

In the Virginia Convention, Mr. George Nicholas said, —

"Another worthy member says there is no power in the States to quell an insurrection of slaves. Have they it now? If they have, does the Constitution take it away? * * * No; but it gives an additional security; for, besides the power in the State governments to use their own militia, *it will be the duty of the general government to aid them with the strength of the Union, when called for.* No part of this Constitution can show that this power is taken away."

Mr. Madison, respecting these clauses, says, —

"On application of the legislature, or executive, as the case may be, the militia of the other States are to be called to suppress domestic insurrections. Does this bar the States from calling forth their own militia? No; *but it gives them a supplementary security to suppress insurrections and domestic violence.*"

III. THE CONSTITUTION HAS BEEN TREATED AS A PRO-SLAVERY INSTRUMENT, BY THE GOVERNMENT, IN PRACTICE.

APPORTIONMENT OF REPRESENTATIVES. (Const., Art. 1, sec. 2.)

In every census which has been taken by the government, the only distinction sanctioned has been between freemen and slaves; and on every occasion of apportioning representatives, according to the representative or federal number, such number has been invariably determined by adding to the whole number of free persons three fifths of the slaves. *If this, the pro-slavery interpretation of this section of the Constitution, be not right, then, since March 3, 1793, there has not been a single House of Representatives constitutionally elected, or a single statute or resolve constitutionally passed!* Who is ready to make this admission?

PERMISSION OF THE AFRICAN SLAVE TRADE. (Const., Art. 1, sec. 9.)

On the 13th of May, 1789, in Congress, —

"Mr. Parker, of Virginia., moved to insert a clause in the bill, imposing a duty on the importation of slaves of ten dollars each person. He was sorry that the Constitution prevented Congress from prohibiting the importation altogether; he thought it a defect in that instrument that it allowed of such actions; it was contrary to the revolution principles, and ought not to be permitted; but, as he could not do all the good he desired, he was willing to do what lay in his power."

Messrs. Sherman, of Connecticut, and Schureman, of New Jersey, thought the subject should be taken up independently. Mr. Madison thought otherwise: —

"I conceive the Constitution, in this particular, was formed in order that the government, whilst it was restrained from laying a total prohibition, might be able to give some testimony of the sense of America with respect to the African trade. We have liberty to impose a tax or duty upon the importation of such persons as any of the States now existing shall think proper to admit; and this liberty was granted, I presume, upon two considerations. The first was, that, until the time arrived when they might abolish the importation of *slaves*, they might have an opportunity of evidencing their sentiments on the policy and humanity of such a trade."

The motion of Mr. Parker was afterwards withdrawn.

In 1794, "An Act to prohibit the carrying on the slave trade from the United States to any foreign place or country" was passed, (Stat. 1794, c. 11.) In 1800, an act in addition to the last was passed, (Stat. 1800, c. 51.) That both these laws were framed with reference to this section of the Constitution is apparent, because the latter act expressly refers to it. Sec. 6 reads thus: "That nothing in this act contained shall be construed to authorize the bringing into either of the United States any person or persons, the importation of whom is, by the existing laws of such State, prohibited."

See also Stat. 1803, c. 63.

And, not to multiply proof, on the 2d day of March, 1807, President Jefferson approved (Stat. 1807, c. 77) "An Act to prohibit the importation of *slaves* into any port or place within the jurisdiction of the United States from and after the *first day of January*, in the year

of our Lord *one thousand eight hundred and eight.*" That is, at the very earliest day allowed by the Constitution (Art. 1, sec. 9) for the passage by Congress of an act prohibiting the importation of persons, a law is passed totally prohibiting the *importation of slaves.*

RESTORATION OF FUGITIVE SLAVES. (Const., Art. 4, sec. 2.)

That the fugitive slave law of 1793, (Stat. 1793, c. 7,) entitled "An Act respecting fugitives from justice, and persons escaping from the service of their masters," and the act of Sept. 18, 1850, "to amend, and supplementary to" this act, are both framed to carry out this clause of the Constitution, is too apparent to need comment.

SUPPRESSION OF SLAVE INSURRECTIONS. (Const., Art. 1, sec. 8, Art. 4, sec. 4.)

The "Act to provide for calling forth the militia, to execute the laws of the Union, suppress insurrections, and repel invasions," (Stat. 1792, c. 28, sec. 1,) provides that, "*In case of an insurrection in any State* against the government thereof, it shall be lawful for the President of the United States, on application of the legislature of such State, or of the executive, (when the legislature cannot be convened,) to call forth such number of the militia of any other State or States as may be applied for, or as he may judge sufficient to suppress such insurrection." Precisely the same language is made use of in Stat. 1795, c. 101. By act, approved March 3, 1807, (Stat. 1807, c. 94,) the President is authorized, "in *all* cases of insurrection," "when it is lawful for him to call forth the militia for the purpose of suppressing the same," "to employ for the same purpose such part of the land or naval force of the United States as shall be judged necessary."

That these laws have been held to include an insurrection of slaves is indisputable. On receipt of the intelligence of Nat Turner's insurrection in Southampton, Va., Colonel House, then commanding at Fortress Monroe, set out with three companies of United States troops, for the purpose of suppressing the revolt. He was reënforced by a detachment from the United States ships Warren and Natchez, amounting in all to about three hundred men. With *our* troops and

our officers, we have actually aided the slaveholder in holding his fellow-man in slavery! We have actually done what our fathers engaged in the Constitution that we should do, namely, aid with the national strength in keeping the slaves in subjection!

IV. THE CONSTITUTION IS PRO-SLAVERY, ACCORDING TO THE EXPOSITION OF ITS FINAL INTERPRETER.

The Constitution declares itself to be "the supreme law of the land," (Art. 6, sec. 2.) It cannot possibly be such unless there is a final interpreter of its meaning. Now, to expound what the law is is a judicial act. "The judicial power" extends to *all* cases arising under the Constitution, and laws, and treaties, (Const., Art. 3, sec. 2.) It therefore extends to the exposition of the meaning of the Constitution, when the case before the court properly calls for such exposition. This judicial power, and, consequently, this power to expound the meaning of the Constitution, is "vested in one Supreme Court," (Const., Art. 3, sec. 1.) The decision of this court, being supreme, must be final.

Apportionment of Representatives. (Const., Art. 1, sec. 2.)

In Hylton *vs.* United States, (3 Dallas's Rep. 177,) Mr. Justice Paterson, delivering the opinion of the Supreme Court, says that the provision contained in this clause, that direct taxes shall be apportioned between the States according to their federal numbers, "was made in favor of the Southern States," and to prevent Congress from taxing "slaves at discretion, or arbitrarily." He also says, (p. 178,) "The rule of apportionment is radically wrong; it cannot be supported by any solid reasoning. Why should slaves, who are a species of property, be represented more than any other property?"

Permission of the African Slave Trade. (Const., Art. 1, sec. 9.)

In the great case of Gibbons *vs.* Ogden, 9 Wheaton's Reports, pp. 206 and 207, (1824,) Chief Justice Marshall, delivering the opinion of the Supreme Court, says that the act of Congress, (1803, c. 63,)

"prohibiting the importation of slaves into any State which shall itself prohibit their importation," was passed in virtue of power conferred by this clause in the Constitution.

RESTORATION OF FUGITIVE SLAVES. (Const., Art. 4, sec. 2.)

The following extracts are taken from the opinion of the Supreme Court in the well-known case, Prigg *vs.* The Commonwealth of Pennsylvania, (16 Pet. Rep. 609, &c.) Judge Story delivered the opinion.

"Historically, it is well known that the object of this clause was to secure to the citizens of the slaveholding States the complete right and title of ownership in their slaves, as property, in every State in the Union into which they might escape from the State where they were held in servitude. The full recognition of this right and title was indispensable to the security of this species of property in all the slaveholding States; and, indeed, was so vital to the preservation of their domestic interests and institutions, that *it cannot be doubted that it constituted a fundamental article, without the adoption of which the Union could not have been formed;*" (p. 613.)

"We have not the slightest hesitation in holding, that, under and in virtue of the Constitution, the owner of a slave is clothed with entire authority, in every State in the Union, to seize and recapture his slave, whenever he can do it without any breach of the peace, or any illegal violence. In this sense, and to this extent, this clause of the Constitution may properly be said to execute itself, and to require no aid from legislation, state or national."

SUPPRESSION OF SLAVE INSURRECTIONS. (Const., Art. 1, sec. 8; Art. 4, sec. 4.)

We are not aware of any decision of the Supreme Court upon the meaning of these clauses; but it seems difficult to conceive that they would hold that the word "insurrections" did not include all insurrections.

Such is the Constitution, according to the plain, obvious, and common meaning of its terms; such it was intended to be made by its framers; such has been the interpretation constantly followed in the practice of the government, from the time of its adoption until

now; and such it is according to the decision of the final interpreter of its meaning. As reasonable men, seeking the truth, we cannot say that there is the slightest doubt whatever on the subject. THE CONSTITUTION VERY MATERIALLY SUPPORTS SLAVERY.

"Yes! it cannot be denied — the slaveholding lords of the south prescribed, as a condition of their assent to the Constitution, three special provisions TO SECURE THE PERPETUITY OF THEIR DOMINION OVER THEIR SLAVES. The first was the immunity for twenty years of preserving the African slave trade; the second was the stipulation to surrender fugitive slaves — an engagement positively prohibited by the laws of God, delivered from Sinai; and thirdly, the exaction, fatal to the principles of popular representation, of a representation for slaves — for articles of merchandise, under the name of persons, * * * in fact, the oppressor representing the oppressed! * * * To call government thus constituted a democracy, is to insult the understanding of mankind. It is doubly tainted with the infection of riches and slavery. Its reciprocal operation upon the government of the nation is to establish an artificial majority in the slave representation over that of the free people, in the American Congress; and thereby to make the *preservation, propagation, and perpetuation of slavery, the vital and animating spirit of the national government.*" — *John Quincy Adams.*

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